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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,740	02/22/2002	Irwin Kotovsky	KOTOV-14	8291

7590 03/18/2005  
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EXAMINER

CARIASO, ALAN B

ART UNIT PAPER NUMBER

2875

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/084,740

Applicant(s)

KOTOVSKY, IRWIN

Examiner

Alan Cariaso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 12-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 25, 2005 has been entered.

### ***Drawings***

2. The drawings were received on March 5, 2004. These drawings are disapproved because of the objection below. It is noted that the proposed drawing changes do illustrate the opening shown in phantom or in dotted lines as provided in figs.3, 6 and 9, however, they are lacking the socket extending through the opening as stated in the drawing objection below.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the opening through which the socket extends (claim 12) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to because of the following informalities: Reference to a drawing reference numeral is lacking, regarding the metal plate as recited at least on page 6, lines 26-31. It appears it should be designated as reference numeral --40--, as noted on page 4, line 9, regarding the "metal heat plate".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 6-11, 15, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by GOEBEL (US 2,625,646).

7. GOEBEL discloses an apparatus (figs.15-16) for lighting a room from the room ceiling comprising: means (64) for lighting at least one lamp (64), one yoke (62,63) which holds the lamp (64) and one transformer (59) electrically connected to the lamp (64), the lamp (64) being either a low voltage or a line voltage; and a housing (unit D) for holding the lamp (64), the housing (unit D) having an outer surface (9, fig.15 or 5, figs.1 or 12) made of at least plastic, glass or synthetic (col.4, lines 50-65; col.5, lines 69-70), the housing (unit D or units A-C) having a first wall (framework 1 with borders 3 & 4, col.4, lines 34-45), a second wall in spaced relation opposing and in parallel with the first wall, a third wall connected to and in perpendicular relation with the first wall and second wall; and a fourth wall connected to and in perpendicular relation with the first wall and the second wall and in spaced relation and in parallel with the third wall (col.4, lines 34-45); wherein the housing (1 or units A-D) includes an interior (fig.16), and an outer layer (9 or 5) positioned about the interior (fig.16), the outer layer (9,5) having the outer surface (9,5), the outer layer made of at least plastic, glass or synthetic (col.4, lines 63-65); wherein the housing has a rectangular shape (fig.15); wherein the lighting means (64) includes at least a second lamp (61); wherein the lighting means (64) includes a gimbal ring assembly (63) having the yoke (fig.16) for holding the lamp (64); wherein the first, second, third and fourth walls (1) have corners (1c, fig.10) which

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are mitered, butted or overlapped (col.4, lines 45-49); wherein the outer layer (5,9) is formed of plates (5,9) that contact the first, second, third and fourth walls (col.4, lines 37-45); wherein the plates (5,9) are regressed, flush (figs.13,16) or protruding (fig.9) with respect to the housing circumference (1); wherein the plates (5,9) are fixed, interchangeable or removable (col.4, lines 44-45,50-51,68-75); wherein the housing is surface mounted (fig.9), suspended (fig.8), semi-recessed or recessed (fig.15) from the ceiling; and given the lighting apparatus, GOEBEL provides the steps of placing the outer layer (5,9) made of at least plastic or glass (col.4, lines 63-65 or lines 50-75) about an interior made of at least metal (col.4, lines 37-49), and introducing a lamp socket connected to a transformer adjacent the housing (col.8, lines 33-40) for either a low voltage or line voltage lamp (64,61,41); placing and adjusting (fig.16) a yoke (63) in the housing for holding the lamp (64) in the housing (fig.16).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over NEWBOLD et al (US 6,357,891) in view of RIPPEL et al (US 6,632,006).

10. NEWBOLD discloses a lighting apparatus that gives way to a method of lighting a room comprising the step(s) of: attaching a housing (10-fig.1, 110-fig.3) having an

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interior (side wall inner layers 130a,132a-134a,136a,138a) made of metal or plastic (col.5, lines 55-60) and an outer layer (outer layers 30b,32b,34b,36b,130b,132b-134b,136b,138b) made of wood (col.5, lines 21-33) to a ceiling (12,112), the housing (figs.2 or 3) having a first wall (30 or 130), a second wall (34) in spaced relation opposing and in parallel with the first wall (30,130), a third wall (32) connected to and in perpendicular relation with the first wall (30,130) and second wall (34); and a fourth wall (36 or 136) connected to and in perpendicular relation with the first wall (30, 130) and the second wall (34) and in spaced relation and in parallel with the third wall (32); and introducing a lamp socket (20,120 or illustrated in phantom in fig.3) in connection at least with any of various low voltage or line voltage lamps (col.4, lines 28-32). However, NEWBOLD does not disclose a transformer adjacent the housing.

11. RIPPEL teaches a transformer or ballast (28, figs.3 & 5) adjacent to housing (15-fig.3 or 12-fig.5) for the purpose of locally connecting and operating the internal lamp (52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lighting apparatus of NEWBOLD et al to include a transformer adjacent the housing as taught by RIPPEL et al in order to locally connect and operate the internal lamp, where the location of the transformer is in a separate space from the lamp would be advantages to isolate and therefore spread the heat produced by each the lamp and transformer (col.2, lines 40-56).

***Allowable Subject Matter***

12. Claims 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: Claims 12-14 contain allowable subject matter not disclosed by the prior art of record, being at least a metal heat plate adjacent the housing top having an opening through which the socket extends, in combination with the housing and means for light of claims 1-4 and 6-11.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. MARTI (US 2,509,979) shows yoke (50,51) holding a lamp (20 via 12), a transformer inside housing (A, fig.2), the housing (A) being rectangular has at least 2 pairs of parallel walls (at least walls 10,11) perpendicular to each other, made of plastic or metal (col.2, line 18). SHEMITZ et al (US 6,270,232) show a gimbal-yoke assembly (1180, fig.11) pivotally holding a MR-16-type lamp (1176) which is connected to a lampholder (1178) and a transformer (col.3, lines 53-55). JACHNO (US 6,561,683) shows a housing (25) made of wood or plastic or metal (col.3, lines 29-30), including at least 4 substantially perpendicular walls (20,22) and an interior that includes plastic panels (34, col.4, lines 28-42), a top/bottom wall (18) that includes sockets (26) holding at least one lamp (32). VAN ETEN (US 6,530,675) shows a lamp housing (42)


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including a synthetic outer layer (66, stucco), fiberglass layer (screen 94, fig.7) and interior PVC layer (71), and further a rectangular lamp housing having a redwood exterior (150, fig.25) walls (151) and pexi-glass walls (153).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (571) 272-2366. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan Cariaso  
Primary Examiner  
Art Unit 2875

AC  
March 14, 2005